

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

CONGREGATION B'NAI JACOB OF  
KERN COUNTY,

Plaintiff,

v.

CHURCH MUTUAL INSURANCE  
COMPANY, S.I.,

Defendant.

No. 1:22-cv-00386-ADA-BAK

ORDER FOR PLAINTIFF TO OBTAIN  
COUNSEL

**THIRTY (30) DAY DEADLINE**

On or about September 24, 2021, Plaintiff Congregation of B'nai Jacob of Kern County ("Plaintiff") filed a complaint in the Superior Court of the State of California, County of Kern, Metropolitan Division. (ECF No. 1-1 at 2.) In the complaint, Plaintiff asserts two causes of action: "Breach of Written Contract" and "Tortious Breach of Contract." (*Id.* at 6-7.) Plaintiff seeks damages that will exceed \$100,000.00. (ECF No. 1-3 at 3.)

Defendant Church Mutual Insurance Company, S.I. ("Defendant") received a copy of Plaintiff's complaint on or about February 17, 2022. (ECF No. 1 at 2.) Based on 28 U.S.C. §§ 1441(b) and 1332(a), Defendant removed the action to this Court on April 1, 2022. (ECF No. 1 at 1.) Plaintiff received notice of removal on April 4, 2022. (ECF No. 5 at 1.) On September 8, 2022, Defendant filed a status report. (ECF No. 8.)

///

1 Defendant's status report advises the Court that Plaintiff's counsel, Ray Thomas Mullen is  
2 deceased. (ECF No. 8 at 1.) The State Bar of California's website also lists Mr. Mullen as  
3 deceased. (*Id.* at 1.) Defendant goes on to state, "[m]y client was contacted by a representative of  
4 the plaintiff and was advised that they wish to dismiss this case. I have not been contacted by any  
5 attorney claiming to represent plaintiff and I have had no contact directly with the plaintiff." (*Id.*)

6 Plaintiff is a domestic nonprofit entity. (ECF No. 1-4 at 2.) According to Local Rule 183  
7 and Federal Rule of Civil Procedure 83, a corporation or other entity may appear only by an  
8 attorney. *Reading Intern., Inc. v. Malulani Group, Ltd.*, 814 F.3d 1046, 1053 (9th Cir. 2016) ("A  
9 corporation must be represented by counsel."). Therefore, Plaintiff must obtain counsel to proceed  
10 in the action.

11 Plaintiff requires counsel even if only to dismiss the action. Once Plaintiff obtains counsel,  
12 it may move for dismissal under Federal Rule of Civil Procedure 41(a)(1)(A). According to Rule  
13 41(a)(1)(A), a party may voluntarily dismiss an action by either, "(i) a notice of dismissal before  
14 the opposing party serves either an answer or a motion for summary judgment; or (ii) a stipulation  
15 of dismissal signed by all parties who have appeared." Fed. R. Civ. P. 41(a)(1)(A)(i)-(ii).

16 If Plaintiff does not wish to dismiss the case, Plaintiff's counsel must file a notice of  
17 appearance pursuant to Local Rule 182(a) to notify the Court and Defendant that Plaintiff seeks to  
18 continue prosecuting this case. Plaintiff must file this notice within thirty (30) days following the  
19 date of service of this order. Otherwise, the Court will dismiss the case, without prejudice, for  
20 Plaintiff's failure to prosecute. *See Cooper v. Maryland Found.*, 25 Fed. Appx. 596, 597 (9th Cir.  
21 2001).

22 Accordingly,

- 23 1. Within **thirty (30) days** following the date of service of this order, Plaintiff shall obtain  
24 counsel and Plaintiff's counsel shall file either a stipulation to dismiss under Rule  
25 41(a)(1)(A) or notice of appearance pursuant to Local Rule 182(a)(1). If Plaintiff fails to  
26 obtain counsel, Plaintiff shall file a request for an extension of time to obtain counsel with  
27 the Clerk of the Court:

28 The Clerk of the Court

2500 Tulare Street,  
Fresno, CA 93721

2. The Clerk of the Court is directed to mail Plaintiff a copy of this order at the address found on the California Secretary of State website:

ATTN: Howard Silver  
Congregation B'nai Jacob of Kern County  
600 17th Street,  
Bakersfield, CA 93301-4921

3. If Plaintiff fails to comply with this order within **thirty (30) days**, the Court will dismiss the case, without prejudice, due to Plaintiff's failure to prosecute.

IT IS SO ORDERED.

Dated: October 3, 2022

  
UNITED STATES DISTRICT JUDGE